IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL WRIT PETITION NO. 7 OF 2005

Mr. Xavier D'Souza,
presently at Sub Jail,
Sada, Vasco. ... Petitioner

versus

1. State of Goa through
the Chief Secretary.

2. The Superintendent,
Sub-Jail, Sada,
Vasco da Gama.

3. The Inspector General of
Prisons, Collectorate,
Panaji, Goa. ... Respondents

Mr. V. Pangam, Advocate under the Legal Aid Scheme for the Petitioner.

Ms. W. Coutinho, Public Prosecutor for the Respondents.

CORAM : N. A. BRITTO, J.

DATE : 9TH SEPTEMBER, 2005.

ORAL JUDGMENT

Rule.

2. Heard forthwith.

3. The petitioner is undergoing life imprisonment under Section 302 I.P.C. and has already undergone imprisonment of 18 years, 5 months and 6 days. The petitioner approached this Court in Criminal Writ Petition No.26/2003 and the learned Division Bench of this Court by Order dated 6-10-2003 rejected the plea of the petitioner for his early release after perusing the report of the Committee for the review of sentences. The Review Committee had then stated that the Police Authorities had submitted report that the petitioner may not be accepted in Society in the event of his release. The Division Bench of this Court was of the view that the ground on which the petitioner's plea was rejected could not be termed as extraneous.

4. The petitioner again approached this Court in Criminal Writ Petition No.51/2004. By Order dated 2-9-2004, the Petition was dismissed as premature as the case of the petitioner was to be placed before the Committee in September,

2004, after a lapse of 2 years.

5. In the affidavit filed by Ms. Meena Goltekar, who is stated to be the Superintendent of the Sub-Jail, Sada at Vasco-da-Gama, it was stated that the file of the petitioner was placed before the Review Committee on 6 occasions and lastly on 3-1-2005 when the case of the petitioner for early release was not recommended. It was stated that the file of the petitioner would be placed again. It appears that it was placed again and the case of the petitioner was considered by the said Committee on 8-8-2005. The Committee in rejecting the case of the petitioner has taken note of the fact that the petitioner had completed 18 years, 5 months and 6 days of imprisonment. The District Magistrate of the native place of the petitioner has not recommended the premature release of the petitioner on the ground that the mother as well the neighbours had expressed their reservations over the premature release of the petitioner. The Superintendent of Police, South Goa, also did not recommend the premature release of the petitioner on the ground that there was strong objection from the family members of the victim and there was possibility that the petitioner may

take revenge on them. The Superintendent of Police, Karwar also has not recommended the premature release of the petitioner on the same grounds as given by the said District Magistrate. It also appears that the prisoner had escaped from custody on 3-5-2004. The Committee has taken note of the fact that although the petitioner is a resident of Hiramath, Honawar, Karwar, the prisoner after his escape on 3-5-2004 was found at Canacona where the family members and witnesses of the deceased in Sessions Case No.2/1987 were residing and not only that the prisoner was also found in possession of a knife of 30 cms. length and thereafter the prisoner was tried and convicted in C.C. No.195/3/C by Order dated 5-6-2004. Considering the conduct of the prisoner, the Committee came to the opinion that the prisoner had not lost potentiality for committing crimes again and future recurrence of commission of crimes by the petitioner could not be ruled out.

6. The reasons given by the Committee for refusal to recommend the case of the petitioner for his early release are very much germane and cannot be termed to be either extraneous or unreasonable in such matters.

7. Considering th above, I find there is no merit in this Petition and, therefore, the same is hereby dismissed. Rule discharged with no order as to costs.

N. A. BRITTO, J.

RD.